

PTO/SB/21 (01-08)

Approved for use through 02/29/2008. OMB 0851-0031

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|   |                      |                          |        |
|---|----------------------|--------------------------|--------|
| <b>TRANSMITTAL FORM</b><br><br>(to be used for all correspondence after initial filing) | Application Number   | 10/728430                |        |
|   | Filing Date          | 12-8-03                  |        |
|   | First Named Inventor | BRUCE C. DOAN            |        |
|   | Art Unit             | JAM948                   |        |
|   | Examiner Name        | WILLIE WENDELL BERRY, JR |        |
| Total Number of Pages in This Submission  | 6                    | Attorney Docket Number   | JAM948 |

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**FEB 26 2008**

| ENCLOSURES (Check all that apply)  |  |  |
|--|--|--|
| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input checked="" type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br><input type="checkbox"/> Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify<br>below):<br>2 PAGES OF EVIDENCE SUPPORTING<br>PRIMA FACIE CASE |
| Remarks<br>PETITION TO WITHDRAW HOLDING OF ABANDONMENT DATED 1-31-08<br>VERIFICATION OF ISSUE FEE PAYMENT<br>EMAIL VERIFICATION THAT NO DRAWING CHANGES WERE NEEDED WITH PAYMENT OF<br>ISSUE FEE<br>COPY OF ABANDONMENT NOTICE DATED 1-31-08   |  |  |
| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT   |  |  |
| Firm Name  | LAW OFFICE OF ASHKAN NAJAFI, PA  |  |
| Signature  | /ASHKAN NAJAFI/  |  |
| Printed name   | ASHKAN NAJAFI  |  |
| Date   | 2-26-08  | Reg. No. 49078   |

| CERTIFICATE OF TRANSMISSION/MAILING   |                 |              |
|---|-----------------|--------------|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: |                 |              |
| Signature   | /ASHKAN NAJAFI/ |              |
| Typed or printed name   | ASHKAN NAJAFI   | Date 2-26-08 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**UNITED STATES PATENT AND TRADEMARK OFFICE**

Appl. No. : 11/143977  
Applicant : Benedict Keenan  
Filed : 6-3-05  
TC/AU : 3618  
Docket No. : JAM978  
Customer No. : 34356

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO THE COMMISSIONER UNDER 37 C.F.R. 1.181(a)**


Sir:

Applicant respectfully requests the Notice of Abandonment dated 01/31/08 (included herewith) to be withdrawn because Applicant submitted a complete and timely response to the Notice Of Allowance dated 03/16/2007. A copy of the acknowledged Part B-Fee Transmittal sheet is included herewith as prima facie evidence of a proper and timely filed issue fee.

Applicant has included a print out of an email, which provides prima facie evidence that the examiner incorrectly checked box 5B (requested drawing changes) on the Notice of Allowance (please see attached email). Applicant verbally notified the examiner about the incorrectly checked box on at least one occasion; November 19, 2007. Applicant explained to the examiner that no drawing changes were necessary because the claims were amended on the previous amendment, which overcame the drawing objections.

On 2/21/2008, both the examiner and the examiner's supervisor confirmed and acknowledged that no drawing changes were necessary with the payment of the issue fee. The examiner's supervisor, Mr. Peter Poon, informed applicant that a petition must be filed to forward the application to the publication department. Therefore, applicant respectfully requests the above-mentioned Notice of Abandonment be withdrawn and the application forwarded to the publication department for issuance into a patent. Please contact the undersigned attorney of record if you have any questions.

Respectfully submitted,

By   
Ashkan Najafi, Esq.  
Reg. No. 49,078  
Customer No. 34,356

Date 2.26.08

6817 Southpoint Parkway  
Suite 2301  
Jacksonville, FL 32216  
Telephone: 904-296-0055  
Facsimile: 904-296-0056  
patentattorney@patent-usa.com

**Ashkan Najafi, PA**

---

**From:** "Berry, Willie" <Willie.Berry@USPTO.GOV>  
**To:** <patentattorney@patent-usa.com>  
**Sent:** Monday, February 25, 2008 3:32 PM  
**Subject:** FW: Problem with 10/728,430

Mr. Najafi:

Here is the written statement you asked for today. Please see the email below.

Willie

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**From:** Berry, Willie  
**Sent:** Wednesday, February 13, 2008 12:47 PM  
**To:** Poon, Peter  
**Cc:** Carone, Michael; Mansen, Michael  
**Subject:** Problem with 10/728,430

I have a problem with this application. I allowed this case on 9/6/07, but in the notice of allowance I indicated there were problems with the drawings. There actually was not a problem with the drawings and I should not have checked the corrected drawings needed box on the notice of allowability. Applicant's amendment filed on 6/14/07 had fixed the drawing problem. On 1/31/08, the publications branch abandoned the application because the applicant failed to correct the drawings within the prescribed period.

The case was only abandoned because of my mistake. My question is how do I fix this problem?

Willie

**PART B - FEE(S) TRANSMITTAL**

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or **Fax** (571)-273-2885

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All fees for patent practice including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

**CURRENT CORRESPONDENCE ADDRESS** (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

34356 7590 09/06/2007

**ASHKAN NAJAFI, P.A.**  
6817 SOUTHPOINT PARKWAY  
SUITE 2301  
JACKSONVILLE, FL 32216

**Certificate of Mailing or Transmission**  
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

|                           |                    |
|---------------------------|--------------------|
| <u>Willie Ann Henline</u> | (Depositor's name) |
| <u>Willie Ann Henline</u> | (Signature)        |
| <u>November 19, 2007</u>  | (Date)             |

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/728,430      | 12/08/2003  | Bruce C. Doan        | JAM 948             | 9427             |

**TITLE OF INVENTION:** WATER EASE FOR CHRISTMAS TREES

| APPLN. TYPE    | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE   |
|----------------|--------------|---------------|---------------------|----------------------|------------------|------------|
| nonprovisional | YES          | \$700         | \$0                 | \$0                  | \$700            | 12/06/2007 |

| EXAMINER                 | ART UNIT | CLASS-SUBCLASS | 11/26/2007 ENCLOSURE | 88888888 18728438 |
|--------------------------|----------|----------------|----------------------|-------------------|
| BERRY, WILLIE WENDELL JR | 3643     | 047-040500     | 01 FC2501            | 720.00 DP         |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).  
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list  
 (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,  
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

**3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)**

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

**4a. The following fee(s) are submitted:**

☒ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies

**4b. Payment of Fee(s): (Please first reapply any previously paid Issue fee shown above)**

☒ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number (enclose an extra copy of this form).

**5. Change in Entity Status (from status indicated above)**

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(p)(2).

**NOTE:** The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Typed or printed name

Ashkan Najafi

Date

Registration No.

November 19, 2007  
49,078

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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## UNITED STATES PATENT AND TRADEMARK OFFICE

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|  |             |                      |                          |                  |
|--|-------------|----------------------|--------------------------|------------------|
| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
| 10/728,430   | 12/08/2003  | Bruce C. Doan        | JAM 948                  | 9427             |
| 7580 01/31/2008  |             |                      | EXAMINER                 |                  |
| ASHKAN NAJAFI, P.A.<br>6817 SOUTHPOINT PARKWAY<br>SUITE 2301<br>JACKSONVILLE, FL 32216 |             |                      | BERRY, WILLIE WENDELL JR |                  |
|  |             |                      | ART UNIT                 | PAPER NUMBER     |
|  |             |                      | 3643                     |                  |
|  |             |                      | MAIL DATE                | DELIVERY MODE    |
|  |             |                      | 01/31/2008               | PAPER            |

## Notice of Abandonment

This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission date \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
    - (1) a timely filed amendment which places the application in condition for allowance;
    - (2) a timely filed Notice of Appeal (with appeal fee);
    - (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission date \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$ \_\_\_\_\_.  
The publication fee, if required by 37 CFR 1.18(d), is \$ \_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☒ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☒ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch  
Office of Data Management